Right to Know

What is the issue?

1. *The primary duty of the Central Information Commission, the apex body under India's transparency regime, is to decide the disclosure or the non-disclosure of certain information that is sought by a citizen.*
2. *But the commission has relinquished this primary duty in cases of larger public importance. This is making India lose its right to know.*

What are the rights of the citizens regarding information?

- Citizens can file applications under the Right to Information Act with any public body and are guaranteed a reply from the public information officer of that public body within 30 days.
- In case of a no reply or dissatisfaction with the response, the citizen can file an appeal at the departmental level and then a second and final appeal with the Information Commission.
- Each State has its own State Information Commission to deal with second appeals concerning State bodies.
- At the centre, it is the Central Information Commission (CIC).

What changes were made?

- Before 2019, the Information Commissioners (ICs) appointed to the CIC were equal in status to the Chief Election Commissioner, and that of a Supreme Court judge.
- They had a five-year fixed term and terms of service.
- After the 2019 amendment to the RTI Act, the Centre gave itself powers to change and decide these terms whenever it wished.
- This in turn stroked at the independence of the commission and those who man it.

What are the impacts of the changes made?

- Before 2019, the CIC was a functioning institution. It had passed orders seeking transparency in many cases of public importance.
- Now, the CIC has become more like a walking dead institution. Cases at the CIC come up for a hearing roughly after a 2 year wait.
- If the matter is not already lost its significance, one can look forward to the commission deciding one's case.
- But in matters of public importance, such as the case seeking disclosure of data pertaining to phone tapping orders passed by the Home Ministry, the CIC delegates its mandate - to decide cases - to the Ministry before it.
- In most cases, the Ministries reiterate their earlier stand of non-disclosure, most often under vague grounds of national interest.
- After these public authorities pass these non-disclosure orders, the CIC refuses to accept any further challenge to such orders, therefore, refusing to do its duty of deciding the cases.
- One of the cardinal rules of natural justice is that no one should be a judge in their own cause.

- However, the commission now allows the very Ministry that stands accused of violating the RTI Act to act as the judge in their own cause and decide whether a disclosure is necessary.

What are the recent actions or inactions by CIC?

- More recent examples from CIC cases do not instill confidence about where India's information regime is headed.
- In a case seeking disclosure of documents relating to the Unlawful Activities (Prevention) Amendment Act 2019, the CIC has kept the matter pending for final order for more than 3 months now - unheard of.
- Unlike court cases, RTI matters do not involve complex legal arguments and are fairly simple to adjudicate.
- In a case related to disclosure of NPAs and top defaulters of a co-operative bank, the matter was listed out-of-turn to issue a "stay" order against the Bank's First Appellate Authority's order for disclosure.
- A stay order is unheard of and there is **no provision for stay order in the RTI Act**.

What are the impacts?

- These actions or inactions reduce the efficiency of the RTI Act.
- It is getting more difficult, if not impossible, to extract any information of importance under the present dispensation.
- Bureaucrats reject RTIs with glee with no fear of facing penal provisions outlined in Section 20 of the RTI Act, knowing fully well that they have a free hand under the Information Commissioners.

What could be done?

- Citizens have to mount intense pressure on authorities to act and appoint commissioners of integrity.
- Lawyers have to help willing citizens take matters to court and seek justice.
- If there is a failure to do so, India will lose its cherished right to know.

Reference

1. The Hindu | India is losing its cherished right to know

Quick Facts

Central Information Commission

- The Commission has been constituted under the Right to Information Act, 2005.
- The jurisdiction of the Commission extends over all Central Public Authorities. It is the highest appellate body under the Right to Information Act.
- The Commission includes Chief Information Commissioner (CIC) and not more than 10 Information Commissioners (IC) who are appointed by the President of India.
- Section 12(3) of the RTI Act 2005 provides for search committee to appoint CIC and IC which includes –
    1. The Prime Minister, who shall be the Chairperson of the committee
    2. The Leader of Opposition in the Lok Sabha

3. A Union Cabinet Minister to be nominated by the Prime Minister

- Similarly, the State CIC and ten State ICs are appointed by the Governor on the recommendation of the committee consisting of
    1. the Chief Minister as Chairperson
    2. the Leader of the Opposition in the Legislative Assembly
    3. a state Cabinet Minister nominated by the Chief Minister

